S.B. CIVIL WRIT PETITION NO.2581/2006
(Ajit Singh & Ors. vs. State of Rajasthan & Ors.)

Date :: 02.04.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.L.S. Jodha, for the petitioners.
Mr.J.S. Bhaleria, for the respondents.

Heard learned counsel for the petitioners.

By way of filing present writ petition, the petitioners have challenged the order dated 31st October, 2005 (Annexue-5) passed by Executive Engineer (Irrigation), Anoopgarh Branch, Division First, Sri Vijaynagar by which a Rakba was transferred by Executive Engineer and an order was passed as per the demand of agriculturist and after considering the recommendations made by the Assistant Engineer for the purpose of providing irrigation facilities to Muraba No.285/452 and 285/453. The respondent No.3 transferred the said Rakba to Chak No.4PGM.

It is contended by learned counsel for the petitioners that against the said order, an appeal was preferred by the petitioners before the appellate authority respondent No.2 Superintendent Engineer, Water Resources, Circle Sri Vijaynagar, District Sri

Ganganagar and the same was dismissed vide order dated 15th May, 2006 without considering merit of the case so also on the ground that execution of the order dated 31st October, 2005 has already been made.

It is further contended by learned counsel for the petitioners that the appellate authority was under an obligation to adjudicate the appeal as per merit of the case and grounds raised by the petitioners in appeal. But learned appellate authority has decided the appeal without even considering the grounds and merit of the case.

I have perused the impugned order passed by the appellate authority.

Upon perusal of the order impugned passed by the appellate authority, it is clear that the appellate authority has not decided the matter on merits, therefore, it is appropriate to remit the case to the appellate authority by quashing its order dated 15th May, 2006 and direct him to decide the case on merits.

In this view of the matter, Annexure-8 is quashed and case is remitted to the appellate authority respondent No.2 Superintendent Engineer, Water Resources, Circle Sri Vijaynagar, District Sri

Ganganagar and he is directed to decide the appeal afresh after providing opportunity of hearing to both the parties and considering the grounds and merits of the case within a period of three months from the date of receipt of certified copy of this order.

The stay order granted by this Court will remain in existence till decision of the appeal.

With these observations, the petition is disposed of.

[GOPAL KRISHAN VYAS],J.

A.K. Chouhan/-